

REMARKS

Status of the Claims

Claims 1-34 and 36 are pending. Claim 36 is newly added. Claim 35 is canceled. Claims 21-34 are withdrawn. Claims 1-20 are rejected.

Claim Amendments

Claims 1 and 10 are amended. Support for these amendments and new claim 36 may be found throughout the application as filed. *See, e.g.*, Original claims 1 and 10; *see also* Specification, pages 3 and 4.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 12 and 13 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Specifically, the Office Action contends it is unclear what constitutes “an amount effective for radiation synovectomy of arthritis” or “an amount effective for radiation of a tumor.”¹

Applicants respectfully traverse and submit that one of skill in the art would readily be able to determine the effective amount used for radiation therapy of a tumor and for radiation synovectomy of arthritic joints.

The USPTO appears to agree. Indeed, the USPTO cites Glajch as teaching that “the amount of radionuclide present in terms of wt % will depend on a number of issues: radionuclide chosen, amount of radioactivity required, etc. and can be calculated to provide for the activity required to treat a given tumor volume.”² As such, the USPTO maintains that one of skill in the art can determine “the amount effective of a radionuclide for radiation therapy of a tumor.”³ Similarly, the USPTO states that in view of Glajch and Day one of skill in the art would be “capable of providing an amount effective of a radionuclide for radiation synovectomy of arthritis.”⁴ Accordingly, because one of skill in the art would understand what constitutes “an amount effective for radiation synovectomy of arthritis” and “an amount effective for radiation of a tumor,” claims 12 and 13 are definite.

¹ *See* Office Action, page 3.

² *Id.* at page 7.

³ *Id.* at pages 7 and 8.

⁴ *Id.* at page 8.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Rejections Under 35 U.S.C. § 102(b)

Claims 1-4, 11, and 15-20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Glajch et al. (U.S. Patent No. 6,455,024, hereinafter “Glajch”).

As amended, the claims are directed to resorbable implant materials for radiotherapy comprising, *inter alia*, a nitrogen-rich surface layer formed on the resorbable base glass matrix.

Glajch does not teach such resorbable implant materials. Indeed, Glajch is silent regarding a nitrogen-rich layer formed on the surface of a resorbable base glass matrix. Rather, Glajch suggests that nitrogen may be incorporated *into* glass—through melting glass in anhydrous ammonia.⁵ This nitrogen content refers to bulk content, and not a surface enriched layer. Moreover, Glajch’s glass particles are ground from glass and thus each particle has a new surface as a result of grinding. Since Glajch does not teach nitriding the surface of its particles after grinding, Glajch does not teach a nitrogen-rich layer formed on the surface of a base glass matrix. Accordingly, because Glajch does not teach each and every element of claim 1, Glajch does not anticipate any of the claims.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Claims 1-3, 6, 7, 11-13, 15, and 17 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wong et al. (U.S. Pub. No. 2004/0131543, hereinafter “Wong”).

As discussed above, the claims are directed to resorbable implant materials for radiotherapy comprising, *inter alia*, a nitrogen-rich surface layer formed on the resorbable base glass matrix.

Wong does not teach such resorbable implant materials. Indeed, Wong is silent regarding the use of nitrogen, let alone forming a nitrogen-rich layer on the surface of a resorbable base glass matrix. Accordingly, because Wong does not teach each and every element of claim 1, Wong does not anticipate any of the claims.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Rejections Under 35 U.S.C. § 103

Claims 1-5, 8, 10-16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Glajch in view of Day et al. (U.S. Patent No. 5,011,797, hereinafter “Day”).

⁵ See Glajch, page 5, lines 40-42 (“... nitrogen can be *incorporated into* phosphate glasses...”); see also *id.* at page 5, lines 47-53.

As discussed above, Glajch does not teach resorbable implant materials for radiotherapy comprising, *inter alia*, a nitrogen-rich surface layer formed on the resorbable base glass matrix. Day does not remedy the deficiencies of Glajch. Indeed, Day is silent regarding the use of nitrogen, let alone forming a nitrogen-rich layer on the surface of a resorbable base glass matrix. Accordingly, because the combination of Glajch and Day does not teach or suggest each and every element of claim 1, the combination of Glajch and Day does not render obvious any of the claims.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Claims 1-5, 8-11, 13-16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Glajch in view of Gilchrist et al. (U.S. Patent No. 6,143,318, hereinafter "Gilchrist").

As discussed above, Glajch does not teach resorbable implant materials for radiotherapy comprising, *inter alia*, a nitrogen-rich surface layer formed on the resorbable base glass matrix. Gilchrist does not remedy the deficiencies of Glajch. Indeed, Gilchrist is silent regarding the use of nitrogen, let alone forming a nitrogen-rich layer on the surface of a resorbable base glass matrix. Accordingly, because the combination of Glajch and Gilchrist does not teach or suggest each and every element of claim 1, the combination of Glajch and Gilchrist does not render obvious any of the claims.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

CONCLUSION

In view of the above remarks, early notification of a favorable consideration is respectfully requested. An indication of allowance of all claims is respectfully requested.

This response is being filed within the three-month time period set forth in the Office Action. Accordingly, no fees are due. Should any fees be due to enter and consider this response, however, the USPTO is authorized to charge these fees to **Deposit Account No. 50-0206**.

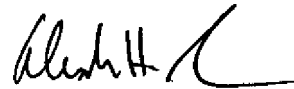
If the Examiner has any questions relating to this response, or the application in general, she is respectfully requested to contact the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

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